

**ENTERED**

April 13, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

JAMES WESTLEY MCCULLERS,

VS.

BRYAN COLLIER *et al.*§  
§  
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§  
§

MISC. ACTION NO. 7:20-mc-763

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Pending before the Court is Plaintiff James Westley McCuller's civil rights miscellaneous action pursuant to 42 U.S.C. § 1983, which had been referred to the Magistrate Court for a report and recommendation. On March 16, 2023, the Magistrate Court issued the Report and Recommendation, recommending that this miscellaneous action be dismissed for failure to prosecute. The time for filing objections has passed and no objections have been filed.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.<sup>1</sup> Finding no clear error, the Court adopts the Report and Recommendation in its entirety. Accordingly, it is hereby ORDERED that Plaintiff's § 1983 civil rights miscellaneous action is **DISMISSED**.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 13th day of April 2023.




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Micaela Alvarez  
United States District Judge

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<sup>1</sup> As noted by the Fifth Circuit, "[t]he advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" Douglas v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1420 (5th Cir. 1996) (quoting FED. R. CIV. P. 72(b) advisory committee's note (1983)) *superceded by statute on other grounds by* 28 U.S.C. § 636(b)(1), *as stated in* ACS Recovery Servs., Inc. v. Griffin, No. 11-40446, 2012 WL 1071216, at \*7 n.5 (5th Cir. Apr. 2, 2012).